S.B.CRIMINAL MISC. PETITION NO.330/2007
(Ganesh Kumar V/s State of Rajasthan)

Date of order :: 11.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Trilok Joshi, for the petitioner.
Mr.Ashok Upadhyay, Public Prosecutor.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

The petitioner submitted an application under Section 451 Cr.P.C. before the learned Additional Chief Judicial Magistrate, Sri Ganganagar. The learned Magistrate while partly allowing the application, has ordered for release of the tractor and trolley to the petitioner on surety bond of Rs.2 lakh and one Supardginama in the like amount along with Bank Guarantee of Rs.1 lakh.

The first argument of learned counsel for the petitioner is that seized wood was purchased from the Forest Department. The petitioner was also having a valid transit permit. Therefore, learned Magistrate has committed illegality

in refusing to release the woods of the petitioner. The second argument of learned counsel is that learned Magistrate has released the tractor & trolley after asking bank guarantee of Rs.1 lakh which is onerous and unjustified, therefore, the same may be quashed or reduced.

The learned Public prosecutor has supported the order of learned Additional Chief Judicial Magistrate and states that it does not require any interference by this Court.

I have heard learned counsel for the parties and gone through the order impugned. The transit permit was only from Rawla to Padampur but it was not transported on that route and it was seized in the area of police station Sadar, Ganganagar. But at this stage, I do not want to express any opinion on merit whether the petitioner was having valid transit permit or not. As far as second argument is concerned that the tractor and trolley released after asking bank guarantee of Rs.1 lakh seems to be onerous.

Looking to all the facts and circumstances of the case, I am of the view that the order of furnishing Bank

guarantee of Rs.1,00,000/- appears to be onerous, therefore, it is reduced to Rs.25,000/-. The order of the learned Magistrate dated 26.2.2007 is modified to the above extent maintaining all other conditions.

With the above observation, this misc. petition is disposed of.

(KRISHAN KUMAR ACHARYA), J.

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